



2189

Ben Moshe 3-1-1-2-1-2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application

Applicant(s): Y. Ben Moshe et al.
Case: 3-1-1-2-1-2
Serial No.: 09/544,054
Filing Date: April 6, 2000
Group: 2189
Examiner: Christopher E. Lee

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Signature: *Lisa L. Tulpis* Date: January 19, 2004

Title: Modular Switch With Dynamic Bus

RESPONSE TO ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
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Sir:

Applicants have received an order indicating that the appeal previously filed in the above-identified application was being returned to the Examiner as being allegedly not ready for docketing as an appeal. Applicants respectfully traverse the order, on the ground that the appeal is in fact ready for docketing.

The order alleges that the appeal is not ready for docketing because claim 31 as filed in the appendix of the Appeal Brief "does not correspond with the claim 31 as amended in amendment B" and "needs to be corrected." Applicants respectfully disagree. Claim 31 as filed in the appendix of the Appeal Brief is as follows:

31. (Twice Amended) A modular switch, comprising:
a plurality of communication cards;
a plurality of backplane sub-buses each allocatable to one or more of the cards; and

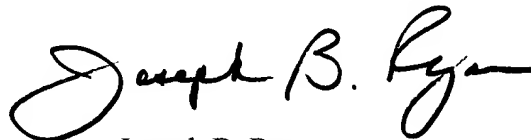
at least one controller which is configurable to divide the cards into different numbers of groups, such that the cards of the different groups do not transmit data to each other, wherein the at least one controller is further configurable to allocate the sub-buses to the cards based on bus demand values of the cards.

This version of claim 31 is believed to accurately reflect two distinct amendments made to claim 31 as originally filed. The two amendments were filed with the USPTO on October 31, 2002 and March 13, 2003, respectively. The latter amendment was an after-final amendment, and its status was explicitly described as follows in the Appeal Brief:

Applicants submitted an Amendment After Final Rejection Under 37 C.F.R. §1.116 on March 13, 2003, amending independent claim 31 to address an objection that the Examiner had raised to claims 31, 35 and 36. The Examiner in an Advisory Action dated April 2, 2003 indicated that, for purposes of appeal, the Amendment After Final would be entered and the objection withdrawn.

Because the above-noted version of claim 31, as provided in the appendix of the Appeal Brief, accurately reflects both amendments made to the originally-filed claim 31, it is believed that the order was issued in error.

Respectfully submitted,



Date: January 19, 2004

Joseph B. Ryan
Attorney for Applicant(s)
Reg. No. 37,922
Ryan, Mason & Lewis, LLP
90 Forest Avenue
Locust Valley, NY 11560
(516) 759-7517